IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

Crl.MC.No. 3933 of 2006()

CC.716/2002 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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PETITIONER:

CHANDINI, W/O. P.K. GOPALAKRISHNAN,
POLACHIRACKAL HOUSE,
EDAPPALLY P.O.,
COCHIN-24.

BY ADV. SMT.C.S.SHEEJA

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. N.K. SEBASTIAN JOLLY,
NADUVATHEZHATH HOUSE,
BOLGHATTY,
MULAVUKAD P.O.,
ERNAKULAM.

BY P.P. SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3933 OF 2006

Dated this the 30th day of November, 2006

ORDER

The petitioner – a woman, finds herself in an unenviable predicament with a non-bailable warrant of arrest issued by the learned Magistrate in a prosecution under Sec.138 of the N.I. Act chasing her. The petitioner had entered appearance; but could not appear before the learned Magistrate on the date of posting. Thereupon, warrant of arrest was issued by the learned Magistrate. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release her on bail when she appears before the learned Magistrate.

2. I am certainly of opinion that it is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or

specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge